

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 371, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 15, delete "When" and insert "**Subject to section 10 of**
- 2 **this chapter, when**".
- 3 Page 2, line 1, delete "shall" and insert "**may**".
- 4 Page 2, between lines 15 and 16, begin a new line block indented
- 5 and insert:
- 6 **"(4) The Medicaid recipient's parent.**
- 7 **(5) An individual, other than a paid caregiver, who:**
- 8 **(A) was continuously residing in the recipient's home for**
- 9 **a period of at least two (2) years immediately prior to the**
- 10 **date of the recipient's admission to the nursing facility;**
- 11 **and**
- 12 **(B) establishes to the satisfaction of the office that the**
- 13 **person provided care to the recipient enabling the recipient**
- 14 **to reside in the recipient's home rather than in a medical**
- 15 **institution."**
- 16 Page 2, line 18, delete ", the Medicaid recipient's guardian, the".
- 17 Page 2, line 19, delete "Medicaid recipient's attorney in fact,".
- 18 Page 2, line 20, after "representative," insert "**if applicable**".
- 19 Page 2, line 32, after "shall" insert "**be filed prior to the recipient's**
- 20 **death and shall**".
- 21 Page 3, line 14, after "chapter" insert ":

1 (1)".

2 Page 3, line 16, delete "." and insert "; or

3 (2) upon the death of the Medicaid recipient."

4 Page 3, between lines 23 and 24, begin a new line block indented
5 and insert:

6 "(3) The recipient's parent."

7 Page 4, between lines 4 and 5, begin a new paragraph and insert:

8 "(c) If the property subject to the lien is sold, the office shall
9 release its lien at the closing, and the lien shall attach to the net
10 proceeds of the sale.

11 Sec. 10. (a) The office may not enforce a lien against property
12 with a value equal to or less than the statewide average value of a
13 homestead on the date of foreclosure or the recipient's death,
14 whichever occurs first. If the value of the property subject to the
15 lien exceeds the statewide average homestead value, the value of
16 the property equal to the statewide average homestead value is
17 exempt from the lien.

18 (b) The office shall adopt rules under IC 4-22-2 to determine the
19 average value of a homestead in Indiana.

20 (c) This section expires January 1, 2008.

21 Sec. 11. (a) As used in this section "financial institution" means
22 a bank, a trust company, a corporate fiduciary, a savings
23 association, a credit union, a savings bank, a bank of discount and
24 deposit, or an industrial loan and investment company organized
25 or reorganized under the laws of this state, another state (as
26 defined in IC 28-2-17-19), or United States law. The term also
27 includes a consumer finance institution licensed to make supervised
28 or regulated loans under IC 24-4.5.

29 (b) A lien obtained under this chapter is subordinate to the
30 security interest of a financial institution that loans money for any
31 of the following purposes:

32 (1) The payment of taxes, insurance, maintenance, and repairs
33 in order to preserve and maintain the property.

34 (2) Operating capital for the operation of a farm, business, or
35 income producing real property.

36 (3) The payment of medical, dental, or optical expenses
37 incurred by the recipient, the recipient's spouse, a dependent
38 parent, or a child who is less than twenty-one (21) years of age
39 or who is disabled under criteria established by the federal
40 Supplemental Security Income program.

41 (4) The reasonable costs and expenses for the support,
42 maintenance, comfort, and education of the recipient's spouse,

a dependent parent, or a child who is less than twenty-one (21) years of age or who is disabled under criteria established by the federal Supplemental Security Income program."

Page 4, line 12, after "death" insert **"to the extent of the individual's interest"**.

Page 4, line 18, delete "." and insert **", except for a trust:**

(i) that meets the requirements of 42 U.S.C. 1396p(d)(4);

or

(ii) that is funded with assets of a person other than the individual or the individual's spouse."

Page 4, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 4. IC 12-15-9-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 0.6. (a) This section applies only to assets that are not included within an individual's probate estate.

(b) The office may enforce its claim only to the extent that the value of the property subject to the claim exceeds the statewide average value of a homestead in Indiana.

(c) The office shall adopt rules under IC 4-22-2 to determine the average value of a homestead in Indiana.

(d) This section expires January 1, 2008.

SECTION 5. IC 12-15-9-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 0.7. (a) This section applies only to assets that are not included within an individual's probate estate.

(b) As used in this section "nonprobate transferee" means a person receiving property described in section 0.5 of this chapter.

(c) The liability of a nonprobate transferee for the office's claim under this chapter may not:

(1) exceed the value of the nonprobate transfers received or controlled by the transferee; and

(2) include the net contributions of the transferee.

(d) Upon notice to a nonprobate transferee, the office may enforce its claim in a proceeding in Indiana in the county in which the:

(1) transfer occurred;

(2) transferee is located; or

(3) probate action is pending.

(e) Enforcement of a claim against assets that are not included within an individual's probate estate must be commenced not later than twelve (12) months after the decedent's death.

SECTION 6. IC 12-15-9-0.8 IS ADDED TO THE INDIANA CODE

1 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY
2 1, 2002]: **Sec. 0.8. Any nonprobate assets:**
3 (1) that the office determined were exempt or unavailable
4 assets; or
5 (2) that were transferred out of the probate estate;
6 before May 1, 2002, may not be included in the definition of estate
7 under this chapter."
8 Renumber all SECTIONS consecutively.
(Reference is to SB 371 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Bray, Chairperson